

one of the most important we will bring before this body. These procedures that have been used are completely atypical. I would beg the leadership to go back to regular order.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2606, FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS ACT, 2000

Mr. SESSIONS, from the Committee on Rules (during the special order of Mr. PALLONE), submitted a privileged report (Rept. No. 106-345) on the resolution (H. Res. 307) waiving points of order against the conference report to accompany the bill (H.R. 2606) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2559, AGRICULTURE RISK PROTECTION ACT

Mr. SESSIONS, from the Committee on Rules (during the special order of Mr. PALLONE), submitted a privileged report (Rept. No. 106-346) on the resolution (H. Res. 308) providing for consideration of the bill (H.R. 2559) to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT FROM COMMITTEE ON RULES REGARDING SUBMISSION OF AMENDMENTS ON H.R. 2723 REGARDING MANAGED CARE PLANS AND OTHER HEALTH COVERAGE

(Mr. SESSIONS asked and was given permission to address the House for 1 minute.)

Mr. SESSIONS (during the special order of Mr. PALLONE). Madam Speaker, this afternoon a "Dear Colleague" letter was sent to all Members informing them that the Committee on Rules is expected to meet the week of October 4, 1999, to grant a rule which may restrict amendments for consideration of H.R. 2723, a bill regarding managed care plans and other health care coverage. Any Member contemplating an amendment to H.R. 2723 should submit 55 copies of the amendment and a brief

explanation to the Committee on Rules no later than 3 o'clock p.m. on Friday, October 1. The Committee on Rules office is located in H-312 in the Capitol. Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

MANAGED CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Madam Speaker, tonight I would like to talk about the Patients' Bill of Rights, the managed care reform legislation which will be considered on the floor of the House of Representatives next week.

My happiness, if you will, over the fact that the Republican leadership in the House of Representatives has said that they will allow a debate on HMO reform next week that will include the Patients' Bill of Rights is somewhat tempered by my concern that the way they may set up the procedure for the debate and the consideration of managed care reform, or HMO reform, may in fact be nothing more than a way to try to kill effective HMO reform and essentially end up with a bill that passes the House and that goes to the Senate that does not accomplish the goal of providing real patient protections.

I just wanted to mention very briefly, if I could, why we need the Patients' Bill of Rights and why my concern about what the Republican leadership may try to do is legitimate.

My colleagues know that I have been on the floor and in the well here many times over the last several years talking about the need for the Patients' Bill of Rights, and the reason for that is there are so many abuses with patients, with constituents that I have, with Americans, who have their health care delivered with HMOs or with managed care, and those abuses have come to light with our constituents calling us up, coming to our office, testifying at various hearings that we have had, particularly those with our Democratic health care task force.

□ 1830

I would say, if I could, to summarize the problems in our attempt to address the problems, basically fall into two broad categories. One is the issue of medical necessity. Too many times HMOs simply do not allow the particular patient to have the operation that their doctor thinks they need or to stay in the hospital for the length of time that their doctor thinks they

should stay or to sometimes even to be able to have the information provided by their doctor about what kind of care that they need, and the reason that is true is because the HMOs increasingly make those decisions. Rather than decisions about what kind of operation you have or how long you stay in the hospital being made by your physician, which was the traditional way and the logical and sensible way for health care to proceed, HMOs increasingly have those decisions made by the insurance company in an effort to try to save costs.

We need to correct that. The decision about what is medically necessary, what kind of care you need, should be made by the physician and the patient, by the health care professional and the patient, not by the insurance company, and that is what we seek to do with the Patients' Bill of Rights is to turn that around and give that decision about what is necessary for your health back to the physician and to you.

The second thing we do and the second most important area where there is abuse is that if a decision is made that you cannot have an operation, for example, that your physician and you think that you need, you should be able to appeal that, and right now that is almost impossible because most HMOs define on their own what is medically necessary, what kind of operation you are going to have. And then if you seek to appeal, the only appeal is to an internal review board which they control. And what we say in the Patients' Bill of Rights is that there should be an independent review, an external review, by people that you can appeal to who are outside the control of the HMO, independently will decide whether or not the HMO's decision was wrong and can be overturned.

And failing that, if that fails, that you should be able to sue and enforce your rights in a court of law which is not the case now because many people, most Americans actually, fall under a Federal preemption called ERISA that says that if their employer is essentially self-insured, which most employers are these days, that then you cannot sue the HMO for damages or to overturn a bad decision about what kind of care you should receive.

The Patients' Bill of Rights has a lot more aspects to it. And some of my colleagues who are here tonight and joining me, I am glad to hear, will go into the details about that. But the bottom line is that if we were allowed the opportunity, which hopefully we will next week, to bring up the Patients' Bill of Rights, which is now a bipartisan bill. Most every Democrat supports it, and we have a number of Republicans, about 20 or 30, that also support it, but the Republican leadership still very much is opposed to it.

Madam Speaker, I just want to say one more thing preliminarily here tonight before I yield to my colleague

from Texas and that is that what I am fearful is going to happen, and we have already heard today the Speaker had a press conference and he indicated that he was going to bring up another piece of legislation, which I think is nothing more than an effort to muck up the Patients' Bill of Rights and create a situation where the bill that finally passes next week is something that cannot pass the Senate, cannot get the President's signature.

And basically what he has proposed is what he calls an access bill that would provide more access to insurance for people who are uninsured. And let me just say very broadly I have looked at that so-called access bill; it is not an access bill. It is a bill that basically will make it more difficult for most Americans to get insurance and make the cost of insurance even higher, and the reason why it does that is very simple. It puts in the so-called poison pills, medical savings accounts, the MEWAs, the health marts; these are nothing more than vehicles that essentially allow wealthy and healthy seniors to opt out of the regular insurance pool, if my colleagues will, and make the costs for those people who are left and who are not healthy or wealthy, who are poor or middle class or who cannot be so sure that their health is going to be that great over the next few years, it makes the costs for those people of going out and buying insurance even greater.

So let us not let anyone, as my colleagues know, kid ourselves about what the Republican leadership is trying to do here next week. They are going to allow the Patients' Bill of Rights to come to the floor as an option, but they are going to make every effort to try to screw around with that bill, add things that will make it so that that bill either does not pass here in the House, cannot pass in the Senate or cannot become law, and we have to put a stop to that and demand a clean Patients' Bill of Rights that will provide adequate patient protections.

Madam Speaker, I yield now to the gentlewoman from Texas and say that, as my colleagues know, your State, as my colleague knows, and I am sure you and others will comment tonight, has already put in place a Patients' Bill of Rights which is very effective but unfortunately does not cover everyone because of the Federal preemption. And I note you have been here many times in your background as a nurse, you know very much what we are talking about in commonsense terms, not only as a Congresswoman, but also on a daily basis, and I yield to the gentlewoman.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I have not yet understood why there is such concern from the HMOs that people not have the right to complain when they feel that they have been harmed by the rules of an HMO. They must not have

any confidence in the quality of care which they are making sure that are offered to patients.

In today's Washington Post there is a story on the Texas bill, and we are still waiting for the sky to fall, and it has not fallen, but the insurance people continue to say: But it will fall. Out of 4 million members of an HMO in Texas, I think they have had 4, maybe 5 lawsuits, and one was very recent, and it all has to do with the care. Now when HMOs offer quality care, there should not be any fear.

This bill in Texas was not carried by a partisan Democrat. It was a conservative Republican member that I served with in the Texas Senate who carried this bill, and, as far as I can tell, they are very pleased with having access because it does challenge HMOs to give more attention to the quality of care.

I still have a hard time understanding what the fear is. All the horror stories that were envisioned by the health insurance industry just has not happened, and while it is too early to see the full effect on my State, it is evident that the implementation of this legislation has had a dramatic effect on resolving complaints between the patients and their health plans before they go to the courthouse, which is where it should be.

But I have a real problem with us saying in a democracy that people, patients, do not have a right to challenge any institution that is in charge of their health care. It is ironic that the HMOs will tell physicians exactly what they can do and what they cannot do, and physicians are held accountable, but they refuse to hold themselves accountable when many of them really are not physicians but simply some bureaucrats that are interested in their bottom line.

The legislation enacted in Texas acted as a prime motivator for HMOs to settle their disputes with their patients, and regrettably, the vast majority of Americans do not have this option which I think is unconscionable in a country that practices the greatest democracy in the world.

I have a feeling that what we are facing even next week might not be the kind of approach to the whole problem that we have worked so hard for.

We do have bipartisan support for a very good Patients' Bill of Rights. I would like very much to see that bill to come to the floor and let us debate it and let us vote and let the votes fall where they may, as we do in many other situations.

I am a little suspect though. I do not believe that it will happen quite as easily.

But I do strongly believe that the Texas experience has offered a real example of what will happen or what can happen. I believe that if the sky was going to fall, it has had time to fall. I believe that if patients were just look-

ing for someplace to file a suit, they can certainly find it without subjecting themselves to poor health care. I just do not believe that we are going to find the kind of uprising that we hear in a scare tactic.

Anything that we do short of making sure patients have an adequate and fair chance of good health care is not fair to the American people. At best, this bill that they are talking about bringing to the floor simply nibbles around the corners of the health care debate. It provides for health care savings plans and a 100 percent deductibility for individual insurance premiums for the self-insured and uninsured. But as my colleagues know, we have so many people that do not have access to insurance, and that will not mean anything to them.

And as my colleagues know, the insurance that we are talking about here will not touch most of the low-income people because they simply cannot afford to have that type of money set aside for a savings account for their health care insurance.

I think that option is one that perhaps ought to be there for those who can afford it, but what we are looking for is insurance that all Americans would have access to and can expect in return a decent practice of medicine by their own standards of medical practice that physicians are educated and trained to render and do not really need an insurance plan to tie their hands when they are the ones who have gotten this education.

□ 1845

One size really does not fit all. People really are different. When you are 7 years old and you have the same diagnosis, it can act up on the body quite differently than if you are 70 with the same kind of diagnosis.

Just to be discussing this in America at this time is something that puzzles me. I just simply cannot understand why we are going through this kind of debate of denial of people of their right to decent healthcare.

It is clear that managed care has brought about some lowering of costs, so I do not think we should throw the whole plan out, but I do feel strongly that patients have a set of basic rights they should be able to depend upon. They should have access to some specialist to see what that condition really is, second opinions, emergency room care, and, certainly, of all things, a physician who is taking orders from this plan should not be subjected any more to the risk of a lawsuit than the plan that is dictating what he does, because very frequently if a physician is placed in that position, he often has to do things that are against really his better judgment. That is really not fair to the physicians.

If these plans feel so comfortable and so confident with what they are offering, there should not be any fear of

lawsuits. People are not seeking lawsuits when they go to the doctor or go to a hospital. They are seeking care. I will tell you from personal experience, if everyone who went to a hospital would file a suit, it would be a very different pattern than what we are seeing in this country and a very different picture. Even hospital administrators and persons who work at hospitals will tell you that people do not really come looking for a way to file a lawsuit. They can find that more often than what they give attention to.

But the culture of denial that is going around in some of these plans is so very disappointing, to the point where it brings about a great deal more suspicion and a great deal more anger among people that know the difference in having access to some reasonable, decent healthcare, versus having a touch and a wipe across the top, so-to-speak, of a wound. It makes all the difference in the world of how a patient will get along, how long their convalescence will be, how long their illness might be.

All of us know that most of the time if a patient can get access to care quickly, with adequate and proper medication, that the illness can be shorter, and especially if they have confidence in the plan. But if they have got to go through a great deal of hassle, a great of emotional upheaval, and still not know for sure whether they are getting the best care, that within itself interferes with the healing process.

It seems to me that we have allowed ourselves to get so divided on this issue that the insurance companies have lost sight of what we are trying to do. They have lost sight of the fact that we are talking about human beings. They are only really seemingly interested in protecting their pockets and trying to be sure that people do not have the right to complain and get redress when they feel they have been harmed.

That is so very unfortunate. But, under the circumstances, we all must stand up as tall as we can and stand with the American people to be sure that, to the best of our ability, they have access to the care that they paid for, and that they get the quality care that we certainly can offer in this country.

I thank the gentleman for continuing to bring this issue to the forefront. It is one that will not go away. Every person in this country is interested in having access to quality care, and it is possible, without the world falling. I think my state of Texas has proven that.

Mr. PALLONE. I want to thank the gentlewoman. I am glad that you and our next colleague to address us are from Texas because of that article in the Washington Post today. You talked about the Texas experience and how that has shown over the last 2 years

that there is not really any significant litigation, that there is not any significant cost increase in having patient protections, but that article today in the Washington Post really pointed out how true that is.

The best thing, I just have to mention this particular paragraph from the article, because, as the gentleman from Texas (Mr. GREEN) knows also, we have been talking about how the threat of the lawsuit and the reason why we believe that there are so few lawsuits in Texas is because of the fact that there is the threat of being able to sue, so the HMOs take a lot of preventative actions and do the prevention type things so they do not get sued.

There was a perfect quote in there where there were health plan administrators and physicians across Texas saying they have an intuitive sense that the threat of lawsuits has made HMOs more accountable. It says, "Joe Cunningham, an internist in Waco, had asked an HMO a year ago to allow a patient to undergo an overnight study to find out if he had some kind of disorder. At first the HMO official balked, but when Cunningham said he worked in Texas, he was told, oh, well, you can do the test."

That is a perfect example, that they know that they allow the test to take place, so they do not have a problem and they do not have any lawsuits. That is what I think is happening in your state.

Ms. EDDIE BERNICE JOHNSON of Texas. And the cost is not soaring.

Mr. PALLONE. I think we have figures that say the cost over the last 2 years since this was in place in Texas was about 30 cents more per month, which a lot of states have more than that. That is one of the lowest cost increases of any state. So I want to thank you again.

I yield to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. I thank the gentleman. It is a pleasure to be here and follow my colleague from Dallas. I know people who watch C-SPAN or Members on the floor may know, Congressman JOHNSON and I were elected to the Texas legislature together when we were, I think we were only 25 years old at that time, in 1972, and served together, both as state representatives and state senators and now in Congress. It is my honor to follow Congressman EDDIE BERNICE JOHNSON from Dallas. In Houston typically we do not like anything in Dallas, but we appreciate the colleagues that we have. So EDDIE BERNICE, it is good to follow you on the floor.

Let me just start off, because last week we had an event here which was a bipartisan press conference over at the Cannon Office Building, and there were lots of Members. If fact, there were Republicans and Democrats talking about the need for a Patients' Bill of Rights.

Of course, it was hosted by Congressman NORWOOD and Congressman DINGELL, our ranking member on our Commerce Committee, and I had the distinction to follow a Republican Member from New Jersey. All of us were giving our 30 second or one minute speech, and she said, "Even Texas provided this."

Well, let me follow up on that a little bit. I got to follow her and say, "You know, in Texas we like to think we are leaders." I have to admit there are some things I do not want to be the leader on that we are the leader on, but in managed care reform we are, and I am proud that in today's newspaper, as we saw here, it was in the Houston Chronicle, said that the Governor of California just signed some managed care reform legislation, a number of bills, that would do lots of things, including the accountability that is so important in our legislation, and also for some of the issues you have talked about. So California passed the legislation.

In Texas we passed it in 1997. A Republican state Senate and Republican state representatives passed this legislation. It meets the criteria, and all we have talked about is trying to do is use the examples of the states that have had success with these reforms, and, if it did not work, we did not want to adopt it.

It worked in Texas, because we have had that law now for over 2 years, and I think we reported there are four lawsuits that are filed, and I do not know if one of them is the one that the insurance industry challenged the law on, so that may be one of them.

But the most important part is that there are so many things, and I will get to it in a few minutes, about what we need in a Patients' Bill of Rights, not only accountability. If someone is standing in place of that physician, then they should also be accountable, just like that physician is. That is part of both the Texas and California law.

But the reason we have not had those lawsuits is we have a really strong outside appeals process, where it is swift and a person can go without having to go to court, to hire a lawyer and go through all the problems and delays. They can go there, because they want healthcare. They can have an outside appeal by an independent body. They will say yes, that particular treatment is needed. In Texas, in the two years over the number of appeals that have been filed, the insurance carriers have lost 50 percent of them. They have lost half of them.

You know what that makes me realize, is that if we had not had an appeals process under Texas law, then half of those people would not be receiving the healthcare that they paid for and that they need, and I use this as an example. If I was a baseball batter, you know, and if I batted .500, that would

be great, if I batted 50 percent, but I would hope we would have a better percentage than flip of a coin when we are dealing with healthcare decisions.

Again, the outside appeals process, if it is strong, you will not have to have the court battles, because people want healthcare. They do not want to necessarily go to court and wait 2 years-plus to be able to receive some type of care, because they need the healthcare.

What I am concerned about is what has happened last session and what we are going to see next week, and I am glad the Speaker has set the time for the House to consider the Patients' Bill of Rights. The fear I know they have is it increases costs and opens employers to unfair lawsuits, both of which are supposedly to force the employers to drop coverage. That has not been the experience in Texas.

What worries me is those two scare tactics and half-truths. Sure, I do not want my employers to drop their healthcare coverage, because that is so important, to have that third-party benefit that is part of an employment package. Particularly I do not want to have increased costs.

To follow up what, as you and my colleague from Dallas mentioned, is in Texas, I do not know if it was 30 cents a month, because what we showed over the period of the year or the year-and-a-half that we can look at the numbers is that there were no cost increases for health insurance in Texas that were not matched by other states that did not have these protections.

Prescription drugs went up. Certain costs were going up already for HMOs, so even though the Congressional Budget Office said that it would cost about \$2 a month for the Patients' Bill of Rights, so, you know, I have heard the example that the cost for a Happy Meal you could get these protections. Well, in Texas it does not even cost the amount of a Happy Meal. So even if it was \$2 a month, to be able to get fairness and protection and accountability for our health insurance, it is worth it.

Again, Texas passed it. It included the external appeals and the liability provisions, the accountability provisions, and, again, the only premium increases were attributed to higher costs of prescription drugs, which is another issue that our House hopefully will work on.

Moreover, there has been no exodus by employers to drop their insurance coverage because of the fear of employer lawsuits. There has not been one in Texas in 2 years. We have a pretty aggressive trial bar, having been a member of it before I came to Congress, and, believe me, if they had the opportunity, they would sue an employer, particularly a deep-pocket employer. But they are not, because employers are not being sued under this. Employers are not making the medical decisions and are not the ones liable

for it. It is the insurance carriers and the people that they hire that are making these decisions.

What Texas residents do have is healthcare protections they need and deserve and the provisions in the Patients' Bill of Rights that should be extended to every American.

Again, my colleague from Dallas talked about it. The Texas law and the California law and whatever state law that may pass only covers insurance policies licensed by that state. They do not cover 60 percent of my constituents who receive their healthcare under ERISA or self-insurance programs. They come under Federal law. So that is why Texas and California and the other 48 states could pass it, but we still have to pass it on this floor of the House, to make sure that all Americans have the same protections, including eliminating gag clauses to where physicians are free to communicate with their patients, open access to specialists for women and children, the chronically ill, so they do not need to get a referral every time.

If I have heart trouble or have cancer, then hopefully I can go back to my oncologist or my cardiologist without having to every day go back or every time go back to my gatekeeper to get permission. So that way you speed up that healthcare. An external and binding and timely appeal processes that guarantees that patients have a timely review of those decisions. I talked about that earlier. The coverage for emergency care so families cannot be required to stop at the pay phone and get preauthorization before they get to the emergency room, and they do not have to pass up an emergency room to go to the one that is on their list, that they can go and get stabilized and if they need to have continued emergency care once they get stabilized, they can be transferred to whoever that HMO made that contract with.

Also hold the medical decision-maker accountable. Again, that is one of the most important parts of any legislation. This is not a shift of medical decisions to the court, nor is it to put employers at risk. It will ensure that the people who may recklessly in some cases deny coverage are accountable for their decisions.

I tell this story, and I have done it on the floor of the House and done it a number of times. I happen to be fortunate, my daughter just started medical school over a year ago, and so two weeks into her medical school career I spoke to the Harris County Medical Society and said she is not quite ready to do brain surgery, she has only been in the school two weeks.

During the question and answer period I had a physician who is now serving as our president of our Harris County Medical Society say, "You know, your daughter after 2 weeks in medical school has more training than

people I have to call to treat you or your constituents."

□ 1900

That is what is the problem. That is why we have to have accountability, not to the physician, but to the people who are making the decisions for that physician.

Instead of recognizing the affordability and the value of the Patients' Bill of Rights, I am concerned that the Republican leadership may talk about a push to half fixes with loopholes in it.

To be honest, after what we went through last year with the Patients' Bill of Rights here on this floor, I am concerned. Although, this year, we have a different Speaker. One does not serve in Congress if one is not an eternal optimist. We will see things change this year to where we will have a fair run with a decent bill like the Norwood-Dingell bill, I see the gentleman from Iowa (Mr. GANSKE) here, that has, like the gentleman from New Jersey (Mr. PALLONE) said earlier, almost every Democrat and a host of Republican Members, and how that is important.

My concern, again, is that we do not have some rule. Again, earlier, we heard the gentleman from Texas from the Committee on Rules come in and talk about some of the rules that the Committee on Rules may put on us and limit our ability to actually pass a real strong Patients' Bill of Rights, or maybe add things to it that may not even be germane.

Sure, I would like to have a tax deduction for health care insurance premiums, not just for sole proprietors, but for everyone. Because I have a district where a lot of our employers, particularly for lower wage workers, maybe \$7 or \$8 an hour, they may not pay the whole insurance premium for their employees. So the employee has no tax deduction for that.

But we need to stop stonewalling and support the Patients' Bill of Rights and give us a fair run on the floor without any poison pill amendments that will make it so much worse.

I know campaign finance reform, 2 weeks ago, we beat back every amendment that was, quote, a poison pill on campaign finance reform; and we passed a strong campaign finance reform to the Senate. I would hope we would use that as a guideline at least and pass a strong Patients' Bill of Rights that will provide those protections for all Americans, and not just those who happen to have a policy that is licensed by the State of Texas or licensed by the State of California.

I thank the gentleman from New Jersey for this special order tonight. He must have worn out lots of pairs of shoes standing where he is at over the last 3 years. I appreciate him allowing us to participate in it.

Mr. PALLONE. Mr. Speaker, I just wanted to mention if I could, before I move to the gentlewoman from Connecticut (Ms. DELAURO), that what we are getting from the insurance companies, from the HMOs, and the gentleman from Texas (Mr. GREEN) effectively refuted each of the three arguments, one, they are saying that the patient protections are going to cost too much. Clearly, the Texas experience shows that that is not true.

Secondly, they are saying that there are going to be too many lawsuits, which, again, the Texas experience shows dramatically that that is not true. Four or five lawsuits in 2 years, that is incredible.

The third thing I just wanted to elaborate on a little bit, and that is this latest notion, which we have been getting really in the last few weeks or last few months, this idea that the employers are going to be sued, and, therefore, they are going to drop coverage. Nothing can be further from the truth.

There is specific language had the bipartisan Patients' Bill of Rights, which is the Norwood-Dingell bill, that would specifically say that employers cannot be sued.

If I could just very briefly say that, the provision that is in the bipartisan bill protects employers from liability when they were not involved in the treatment decision. It goes beyond to even define that more explicitly by saying, explicitly, that discretionary authority, in other words, the situation where the employer would be somehow implicated and involved, if you will, in the decision, that discretionary authority does not include a decision about what benefits to include in the plan, a decision not to address a case while an external appeal is pending, or a decision to provide an extra contractual benefit.

Now, that sounds a little like a lot of legal jargon, but the bottom line is what they are saying here is that the employer cannot be involved because they are not involved in the treatment decision, and they are not even involved in a decision about what kind of benefits to include, whether or not to avoid an external appeal, whether to provide some kind of extra contractual benefit.

So I really cannot imagine any situation where an employer is liable under this provision. It has been put in there specifically to address that concern.

Mr. GREEN of Texas. Mr. Speaker, if the gentleman will yield just briefly, during the memorial week break, I spoke to a lot of large employers in my district. It was organized by the National Association of Manufacturers. During the question and answers, that question came up. I said if they write the language, we could put it in the bill.

I know there have been efforts by, not only the office of the gentleman

from New Jersey (Mr. PALLONE), but also the main sponsors of it to ask for that language. So we do not have employers being sued for health care decisions unless they are the ones making those decisions.

So far, all we hear is that they would rather oppose the bill; and I think that is wrong. It has worked in Texas, and it is going to work in California, and I know it will work throughout our country.

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from Connecticut (Ms. DELAURO) who, again, as the other two that have spoken tonight were here, I think it is at least 3 years now that she has been on the floor talking about the need for these patient protections. I am pleased that she is here with us tonight.

Ms. DELAURO. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for yielding to me, and I thank him for continuing to bring us all together. I think there is no greater champion in the House for patients' rights than the gentleman from New Jersey (Mr. PALLONE).

I am delighted to be here with him, with our colleagues from Texas, because I think the proof is in the pudding; and Texas has led the way in this effort. It is working. So we have the example.

Oftentimes, we can speculate as to what will happen or what will not happen with a piece of legislation, and those are legitimate concerns. But we have something that is working, it is working for the State of Texas, for the people of Texas; and it has not caused the kind of either chaos or increase in health care costs that a number of nay sayers said that it would.

I also would just reinforce another thing that my colleagues have said tonight, is that, in fact, the wonderful effort, the bipartisan effort that has been put together in the piece of legislation that we are talking about, that employers cannot be sued; and that this notion that they are liable in some way is a way in which to really derail what has been such a very, very well-crafted piece of legislation by folks who are genuinely concerned about what is going on in managed care today.

It is almost a historic moment because people have been working on this for such a long time that, after years of fighting for health care reform, we are on the verge of victory, of a great victory.

A number of our Republican colleagues, including a number of doctors, and the gentleman from Iowa (Mr. GANSKE) is on the floor here tonight, Republicans have joined with Democrats to support a real Patients' Bill of Rights. We have a good chance of passing bipartisan HMO reform this year. It is very, very exciting.

But, as we stand on this doorstep of victory, if you will, there are some in

this body that will continue to want to shut the door on that kind of reform.

As a footnote, we have been able to pass good, solid legislation in this House that has come from bipartisan effort of Democrats and Republicans throughout the history of this country. We are on the verge of being able to do that again if they will give us the opportunity to do it.

I would just say that, today, the Republican leadership put its stamp of approval on a new health care bill that has been referred to tonight, talked about tonight; and that, in fact, is nothing more than an attempt to kill HMO reform this year.

If the Republican leadership, and not the rank and file, because there is tremendous support from rank-and-file Democrats and Republicans to support the Dingell-Norwood bill, but if the Republican leadership wants to improve health care, please join with this effort to pass a Patients' Bill of Rights. It is legislation that has been endorsed by doctors, nurses, patient advocates, consumer groups. It is, in fact, the very best way to put power back into the hands of doctors and patients where it belongs.

Instead, we have, at this 11th hour, a decision to produce a piece of legislation for next week's debate. It is called the Quality Care for the Uninsured Act. The stated goal of the legislation is to improve access to health insurance, which is a worthy goal.

But no matter what its stated intention is, the fact is that this piece of legislation that has been crafted is a bill that could kill HMO reform for another year. The bill is not just bad because it hurts our chances to pass HMO reform, but it is bad on its own merit as well.

The gentleman from New Jersey (Mr. PALLONE) talked about this a little bit earlier. The Republican bill is dangerous because it includes risky Medical Savings Accounts. Study after study tells us that the MSAs are going to skim the healthy and the wealthy out of the health care system, leave everyone else in a weakened system, which will only drive up health care costs. This is not the way to fix our health care system.

The Republican bill is a budget buster. It was recently revealed that the Republican Congress has already dipped into the Social Security Trust Fund to the tune of \$16 billion. So, perhaps, the notion is, "well, what the heck, let us go back for some more."

What this bipartisan bill, the Dingell-Norwood bill, says is that let us fully pay for what we are talking about; that we are not going to take money from the Social Security Trust Fund.

The so-called health care bill is a poison pill. It weakens the Patients' Bill of Rights. It invites a veto from the President. It took us 9 months, 9

months of fighting to be able to get a debate on Patients' Bill of Rights. We are out the door. Let us do it right. Let us do the right thing. Let us have a fair debate, an open debate about Patients' Bill of Rights. Then let us have a fair and open debate on how to improve access to health care for all Americans. Let us not use one issue to kill the other. That would be a tragedy for the American people.

I would just say about this bill that has just seen the light of day today that it does not address the liability issue, the right to sue, the right to some accountability in the process. We know that there is not any accountability in the process today for HMOs, a place to turn if an HMO is involved in making a medical decision, and it might go wrong. Where do people turn?

I was in Hamden, Connecticut this weekend where I did office hours, and two people came and talked to me and just begged for the opportunity to have an appeal process, a place to go, a place for accountability.

A gentleman lost his wife. We do not know all the particulars of the case, but she was in the hospital. She went home. She was told she had to go home. There was no one to monitor the toxics in her bloodstream. She was put back into the hospital, and she wound up passing away. The man just pleaded with me. He said, "Where do I go? Who do I turn to?"

We are all asking for some accountability in the process; that is all. It is not unreasonable. This piece of legislation that has been proposed today does not allow for any accountability. What the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD), which Republicans and Democrats have come together on, would do is put accountability into this process. It is critical that it exists.

We need to reform HMOs. We need to improve health care access. We need to help those with insurance who have lost control of their medical decisions. We need to help those who are without any insurance, we need to help them to gain entry into the system.

Next week, we have the opportunity to do the right thing, to pass a bipartisan Patients' Bill of Rights that could truly make a difference in the lives of the people that we represent.

My cry, I know the gentleman from New Jersey, I know my Republicans who have joined in this effort, our colleagues from Texas and all over the country, let us do it together. Health care is not a partisan issue. It is an issue that is on the minds of every American family in this country. Let us do the right thing next week.

I thank the gentleman from New Jersey (Mr. PALLONE) for the role that he has played in this effort.

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on what the gentlewoman from Connecticut (Ms.

DELAURO) said, particularly about this latest initiative, if you will, that the Speaker put forward today. I am going to be harsher than she is in saying that I have absolutely no doubt that this new proposal that was put forward is nothing more than an effort to try to kill the Patients' Bill of Rights.

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And it is amazing to me the theme of the proposal that the Republican leadership put forward today, which is that somehow the Democrats are not doing the job because we are focusing on managed care reform which only impacts people who actually have health insurance, who are in HMOs, and that the Republican leadership, the Speaker, is not concerned so much with the people who have insurance who are in HMOs but the people who do not have insurance, the uninsured.

The hypocrisy of that is so blatant. We as Democrats, and President Clinton and Vice President GORE, have spent the last 5 or 6 years putting forth proposals to address the problems of the uninsured, starting with the President's universal health care coverage, then the kids' health care initiative, the effort to try to address the near elderly, which would let people 55 to 65 buy into Medicare. There have been so many proposals to try to deal with the problem of the uninsured, and all of them have either been put aside, the Republicans have not let them come up; or maybe after they had been kicked and they were screaming, after we pushed and pushed and pushed, as in the case of the kids' health care initiative, we were finally able to get to the floor, but those were Democratic initiatives.

I also just wanted to say very briefly that what the Republican leadership is trying to do is to say that managed care is unimportant, let us focus on the uninsured. That is a false premise. We have been spending a lot of time over the last year trying to say that we need to address managed care reform. Let us do that now. I am more than willing to deal with the problem of the uninsured later.

I just wanted to say, if I could, that I find this so ironic, because I brought with me today a document that I used in the last debate on HMO reform where the Republican leadership tried to kill the Patient Protection Act. This is from July of 1998, about a year ago, and that was at the time when the House Republican leadership announced their response to the then Dingell-Ganske bill.

And our colleague, the gentleman from Iowa (Mr. GANSKE) is here tonight. This is just from a statement that I made. It says, "In an attempt to mislead supporters of the Dingell-Ganske Patients' Bill of Rights, the House Republican leadership has called for new legislation." They called it the

Patient Protection Act. "However, a more apt title would be the Insurance Industry Protection Act. It not only excludes many key provisions that are essential for consumer protection, but vehemently opposed by the insurance industry, but also includes a number of provisions that would reduce current consumer protections and destabilize the insurance market."

The three things that are in this bill that the Speaker put forward today, rather than bringing more people into the ranks of the insured, would make it virtually impossible for those who do not have insurance to buy insurance, and I just wanted to mention the three things. The gentlewoman from Connecticut has mentioned them already.

One is the health marts. The Republican plan creates health marts under the guise of offering choice to individuals in small business. In reality, health marts would be able to selectively pick what areas they offer their product in, avoid State consumer protection laws, and selectively contract with providers to avoid enrolling people in certain areas. These entities would skim the healthy out of the insurance market leaving everyone else with increasingly unaffordable premiums.

The next thing are the MEWAs, the multiple employer welfare arrangements. These, again, make it so that whoever is left in the system has to pay more and cannot get insurance.

And the last thing, the medical savings accounts, again, we have had these medical savings accounts on a demonstration basis for a couple of years now. Nobody wants them. Nobody even enrolls in them. But if the healthy and wealthy do enroll, that just leaves the sicker and poorer people out there with no insurance and the inability to buy because the cost goes up.

So all I am trying to say is that what the Speaker proposed today is not going to help the uninsured, it is going to make it more difficult for the uninsured to get insurance. It does just the opposite.

Ms. DELAURO. The gentleman has just made so many accurate points here. The whole notion of this new piece of legislation at the last moment, at the same time, really is *deja vu* all over again. Because we are at a moment when we can pass something that is meaningful, and the Republican leadership has come up with something that is flawed in so many ways.

But I think it is so interesting that the Speaker seems to be suffering from short-term memory. The Democrats joined with President Clinton in 1993 to try to offer universal coverage to people in this country. The fact of the matter is at that time Republicans joined with the insurance industry to kill the legislation. This is revisionist history when we take a look at a document that talks about dealing with the uninsured.

We have stood here night after night after night for the last several years talking about medical savings accounts. This is why they call it skimming. When they pull out the people who are the healthiest and the wealthiest, the most frail are thereby left in the system, which only drives the costs up.

This is a kind of a bolt from the side here to throw into the mix at the last moment, in the same way, quite frankly, campaign finance reform was handled a few weeks ago. It was an effort to put up something that was spurious, that in fact would wreck and kill campaign finance reform. This is the same thing; trying to kill HMO reform. I do not think that they will get away with it, because there is good solid bipartisan support for a Patients' Bill of Rights.

And I know that my colleague from New Jersey and I will continue to be, our colleagues from Texas and California that just passed legislation in their Statehouse there, we are all going to be on our feet and talking about this and engaging the public in this debate.

Mr. PALLONE. I thank the gentleman from Connecticut. This is just the beginning.

I heard one of our colleagues from Texas on the other side talk about the rule and the Committee on Rules and how this managed care debate is going to be formulated. Obviously, we will keep our eye on this to see how the procedure goes. But every indication I have today from the Republican leadership, not from the Republicans that support the Patients' Bill of Rights but from the leadership, is that they are going to try to muck this up and make patient protections impossible.

MANAGED CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GANSKE. Mr. Speaker, we are about 1 week from having at least 1 day of debate here on the floor of the House of Representatives on managed care reform and, hopefully, we will pass the bipartisan consensus patient protection bill of 1999.

There has been a lot of talk about what is in this bill, so I want to go over some of the specifics. And then I want to focus a little bit about some of the miscommunication that has been put out about the bill in regards to its liability section, since I was largely responsible for writing the liability section in a previous bill.

First of all, the bipartisan consensus patient protection bill of 1999 deals with access to care. I think the opponents to this legislation want to focus

on one issue, and that is the liability provisions. But there is a lot in this bill. This is a comprehensive bill that is important to the people of this country, and it is part of the reason why over 300 organizations, patient advocacy groups, consumer groups, provider groups, have endorsed this bill.

What are some of the provisions in the bill that make this an excellent bill? First of all, access to emergency services. Individuals should be assured that if they have an emergency, those services will be covered by their plan. The bipartisan consensus bill says that individuals must have access to emergency care without prior authorization in any situation that a prudent layperson would regard as an emergency.

What does this mean? Well, this means that if, for instance, an individual wakes up in the middle of the night and has crushing chest pain, is hot and sweaty, and that individual happens to remember an ad put on TV by the American Heart Association that these could be signs an individual could be suffering from a heart attack, that that individual can go to the nearest emergency room, pronto, to be treated. That is what a prudent layperson would define as a potentially impending fatal heart attack.

Now, the problem that we have had is that a lot of HMOs will say that if the tests show that the patient is actually not having a heart attack, even though the symptoms indicated that they were, if the tests after the fact show that the electrocardiogram was normal, that maybe the individual was suffering severe inflammation of the esophagus or the stomach, they say, well, see, the patient was not really having a heart attack so they did not really need to go.

The problem with that is that when that kind of attitude gets around, people then start worrying that they are going to be stuck with a big bill and they may then delay getting the needed care that they need in an expeditious fashion. The next time it happens it may really be a heart attack, the individual may delay taking action, and then they may not make it to the emergency room.

That is the type of thing that we are looking at fixing in this bill. We did this for Medicare, by the way. This should be a noncontentious issue. We have already passed that provision for Medicare. Why can we not apply it to everyone in this country who buys insurance? Especially those who take up HMO insurance.

How about the provisions for specialty care? Patients with special conditions should have access to providers who have the expertise to take care of them. The bipartisan consensus bill allows for referrals for people to go outside of the plan's network for specialty care at no extra cost for the enrollee, if

there is no appropriate provider in that health plan. This is really important to a lot of consumer groups, a lot of patients with certain types of chronic care that need a specialist. A person with rheumatoid arthritis, for instance.

Chronic care referrals for individuals who are seriously ill or require continued care by a specialist. A plan should have a process for selecting a specialist who can be the regular doctor for that patient, so that every time a patient has to go and see their cancer doctor they do not have to get a referral from the health plan.

How about women's protections? The bipartisan consensus bill provides for direct access to obstetricians and gynecologists for services.

Children's protections. The bipartisan bill ensures that the special needs of children are met, including access to pediatric specialists. Children are not just little adults. Before I came to Congress, I was a reconstructive surgeon. I took care of a lot of children with birth defects. They have special needs. If a child has cancer, that child ought to have access to a pediatric oncologist.

Continuity of care. Patients should be protected against disruptions in care because of a change in the plan or a change in the provider's network status. Let us say a woman is a couple months from delivering. She has been followed by her obstetrician for two-thirds of her pregnancy. All of a sudden the plan says, well, we are changing the plan. This guy or this woman is no longer in the plan. That is a significant disruption in care.

How about somebody who is dying and they have been followed or taken care of by a certain physician? There are certain benefits to continuity of care in terms of quality of care, and we ought to make sure that people who are right in the midst of complicated treatments do not have their care disrupted by a plan arbitrarily changing their physicians.

Clinical trials. This is part of the reason why, for instance, the American Cancer Society has endorsed the bipartisan consensus managed care patient protection bill. Access to clinical trials can be crucial for treatment of an illness, especially if it is the only known treatment available. Plans under this bill must have a process for allowing certain enrollees to participate in approved clinical trials, and the plan must pay for the routine patient costs associated with those trials. That is in our bill.

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Drug formularies. Prescription medications are not one size fits all. For plans that use a formulary, beneficiaries should be able to access medications that are not on that formulary when the prescribing physician dictates.